

**Notice of Allowability**

Application No.

10/594,786

Examiner

ROBERT SOREY

Applicant(s)

BUTCHER ET AL.

Art Unit

3626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/29/2008.
2. ☒ The allowed claim(s) is/are 128-136, 138-143, 146-151, 153-155, 161-164, 170, and 171.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>20100609</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|  | 9. <input type="checkbox"/> Other _____.   |

/C. Luke Gilligan/  
Primary Examiner, Art Unit 3626

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the communication filed 09/29/2008.

Pending claim(s): 122-172. Cancelled claim(s): 1-121. New claim(s): 122-172.

### ***Examiner's Amendment***

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Raphael Monsanto on 06/09/2010.

The following claims in the application have been amended as follows (please replace the corresponding claims in the application with the claims below):

Claims 122.-127. (Canceled)

Claim 128. A method of generating a personalized wellness program for a human client, the method comprising the steps of:

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entering into a computer system, by a user, responses to a questionnaire containing inquiries regarding a plurality of physical and lifestyle aspects of the human client;

wherein the responses to the inquiries relate to the human client's physical characteristics, biochemical characteristics, and psychological characteristics;

entering into the computer, by the user, a plurality of the human client's physical measurements, biochemical measurements, and psychological measurements;

calculating, by the computer system, a transformed physical score ("Pht") based on the entered questionnaire responses relating to the human client's physical characteristics and the human client's entered physical measurements, a transformed biochemical score ("Bt") based on the entered questionnaire responses relating to the human client's biochemical characteristics and the human client's entered biochemical measurements, and a transformed psychological score ("Pst") based on the entered questionnaire responses relating to the human client's psychological characteristics and the human client's entered psychological measurements;

calculating, by the computer system, a wellness quotient ("Wq") of the human client, the wellness quotient being representative of an overall wellness condition of the human client, wherein the wellness quotient ("Wq") is calculated in accordance with the relationship:

$$Wq = (Pht)^{0.4}(Bt)^{0.4}(Pst)^{0.2} ;$$

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selecting and outputting, by the computer system, an item of output information from a plurality of items of information based on the calculated to the wellness quotient; and

recording, by the computer system, the item of output information on media responsive to the selecting of output information.

Claim 129. The method of claim 128, wherein the responses to the questionnaire include:

responses to inquiries relating to the human client's physical characteristics, to produce a physical questionnaire data element;

responses to inquiries relating to the human client's biochemical characteristics, to produce a biochemical questionnaire data element; and

responses to inquiries relating to the human client's psychological characteristics, to produce a psychological questionnaire data element.

Claim 130. The method of claim 129, wherein the computer system further performs the steps of:

physical questionnaire scoring for producing a physical questionnaire score value responsive to the physical questionnaire data element;

biochemical questionnaire scoring for producing a biochemical questionnaire score value responsive to the biochemical questionnaire data element; and

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psychological questionnaire scoring for producing a psychological questionnaire score value responsive to the psychological questionnaire data element.

Claim 131. The method of claim 130, wherein the computer system further performs the steps of:

physical measurement scoring for producing a physical measurement score value responsive to the second data element;

biochemical measurement scoring for producing a biochemical measurement score value responsive to the third data element; and

psychological measurement scoring for producing a psychological measurement score value responsive to the fourth data element.

Claim 132. The method of claim 131, wherein the computer system further performs the steps of subjecting the physical questionnaire score value, the biochemical questionnaire score value, the psychological questionnaire score value, the physical measurement score value, the biochemical measurement score value, and the psychological measurement score value to adjustment in response to a predetermined multiplier value.

Claim 133. The method of claim 131, wherein the computer system further performs the steps of:

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producing a physical score ("Phs") responsive to a predetermined combination of the physical questionnaire score value and the physical measurement score value;

producing a biochemical score ("Bs") responsive to a predetermined combination of the biochemical questionnaire score value and the biochemical measurement score value; and

producing a psychological score ("Pss") responsive to a predetermined combination of the psychological questionnaire score value and the psychological measurement score value.

Claim 134. The method of claim 133, wherein in said step of producing a physical score, the predetermined physical score combination ("Phs") of the physical questionnaire score value ("Phqsv") and the physical measurement score value ("Phmsv") corresponds to the relationship:

$$\text{Phs} = 0.25 \text{ Phqsv} + 0.75 \text{ Phmsv} .$$

Claim 135. The method of claim 133, wherein in said step of producing a biochemical score, the predetermined biochemical score combination ("Bs") of the biochemical questionnaire score value ("Bqsv") and the biochemical measurement score value ("Bmsv") corresponds to the relationship:

$$\text{Bs} = 0.25 \text{ Bqsv} + 0.75 \text{ Bmsv} .$$

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Claim 136. The method of claim 133, wherein in said step of producing a psychological score, the predetermined psychological score combination ("Pss") of the psychological questionnaire score value ("Psqsv") and the psychological measurement score value ("Psmsv") corresponds to the relationship:

$$Pss = 0.50 Psqsv + 0.50 Psmsv .$$

Claim 137. (Canceled)

Claim 138. The method of claim 133, wherein there is provided the further step of transforming the physical score ("Phs"), the biochemical score ("Bs"), and the psychological score ("Pss") to produce respective ones of a transformed physical score ("Pht"), a transformed biochemical score ("Bt"), and a transformed psychological score ("Pst").

Claim 139. The method of claim 138, wherein said step of transforming the physical score ("Phs"), the biochemical score ("Bs"), and the psychological score ("Pss") is performed in accordance with the relationships:

$$Pht = 450/Phs ;$$

$$Bt = 450/Bs ; \text{ and}$$

$$Pst = 450/Pss .$$

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Claim 140. The method of claim 139, wherein the physical score ("Phs"), the biochemical score ("Bs"), and the psychological score ("Pss") are combined to produce the wellness quotient ("Wq").

Claim 141. The method of claim 128, wherein in said step of selecting and outputting an item of information there is provided the step of selecting at least one audio segment from a plurality of audio segments based on the wellness quotient.

Claim 142. The method of claim 128, wherein in said step of selecting and outputting an item of information there is provided the step of selecting at least one text paragraph from a plurality of text paragraphs based on the wellness quotient.

Claim 143. The method of claim 128, wherein in said step of entering into a computing system responses to a questionnaire containing inquiries regarding a plurality of physical and lifestyle aspects of the human client includes the step of entering into the computing system lifestyle data, heart beat rate data, blood pressure data, and height and weight data about the human client.

Claims 144.-145. (Canceled)



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Claim 146. The method of claim 128, wherein in said step of selecting and outputting by the computer system there is provided the step of selecting an item of physical exercise based on the calculated wellness quotient.

Claim 147. The method of claim 128, wherein there are provided the further steps of:

waiting a predetermined period of time;

entering into a computer system, by a user, new responses to a questionnaire containing inquiries regarding a plurality of physical and lifestyle aspects of the human client;

wherein the new responses to the questionnaire relate to the human client's physical characteristics, biochemical characteristics, and psychological characteristics;

entering into the computer system, by the user, a plurality of the human client's new physical measurements, biochemical measurements, and psychological measurements;

calculating, by the computer system, a new transformed physical score ("Pht") based on the newly entered questionnaire responses relating to the human client's physical characteristics and the human client's entered physical measurements, a new transformed biochemical score ("Bt") based on the newly entered questionnaire responses relating to the human client's biochemical characteristics and the human client's entered biochemical measurements, and a new transformed psychological score ("Pst") based on the newly entered questionnaire responses relating to the human

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client's psychological characteristics and the human client's entered psychological measurements;

calculating, by the computer system, a new wellness quotient ("Wq") of the human client, the wellness quotient being representative of an overall wellness condition of the human client, wherein the new wellness quotient ("Wq") is calculated in accordance with the relationship:

$$Wq = (Pht)^{0.4}(Bt)^{0.4}(Pst)^{0.2} ;$$

selecting and outputting, by the computer system, an item of output information from a plurality of items of information based on the calculated to the wellness quotient; and

recording, by the computer system, the item of output information on media responsive to the selecting of output information.

Claim 148. The method of claim 147, wherein the predetermined period of time is five weeks.

Claim 149. The method of claim 147, wherein the computer system further performs the steps of:

comparing the wellness quotient and the new wellness quotient; and

selecting and outputting an item of information from a plurality of items of information based on said step of comparing the wellness quotient and the new wellness quotient.

Claim 150. A system for determining and improving the wellness of a human client, the system comprising:

a computer system configured to receive entered responses to a questionnaire containing inquiries regarding a plurality of physical and lifestyle aspects of the human client, wherein responses to the inquiries relate to the human client's physical characteristics, biochemical characteristics, and psychological characteristics;

the computer system configured to receive the human client's entered physical measurements, biochemical measurements, and psychological measurements;

the computer system configured to calculate a transformed physical score ("Pht") based on the entered questionnaire responses relating to the human client's physical characteristics and the human client's entered physical measurements, a transformed biochemical score ("Bt") based on the entered questionnaire responses relating to the human client's biochemical characteristics and the human client's entered biochemical measurements, and a transformed psychological score ("Pst") based on the entered questionnaire responses relating to the human client's psychological characteristics and the human client's entered psychological measurements;

the computer system configured to calculate a wellness quotient ("Wq") of the human client, the wellness quotient being representative of an overall wellness condition of the human client, wherein the wellness quotient ("Wq") is calculated in accordance with the relationship:

$$Wq = (Pht)^{0.4}(Bt)^{0.4}(Pst)^{0.2} ;$$

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the computer system configured to form a customized wellness program based on the calculated wellness quotient ("Wq") of the human client.

Claim 151. The system of claim 150, wherein the computer system is configured to provide an item of physical exercise equipment based on the wellness quotient ("Wq").

Claim 152. (Canceled)

Claim 153. The system of claim 150, wherein the computer system is further configured to:

receive new entered responses to a questionnaire containing inquiries regarding a plurality of physical and lifestyle aspects of the human client, wherein responses to the inquiries relate to the human client's physical characteristics, biochemical characteristics, and psychological characteristics;

receive the human client's new entered physical measurements, biochemical measurements, and psychological measurements;

calculate a new transformed physical score ("Pht") based on the newly entered questionnaire responses relating to the human client's physical characteristics and the human client's entered physical measurements, a new newly transformed biochemical score ("Bt") based on the entered questionnaire responses relating to the human client's biochemical characteristics and the human client's entered biochemical measurements, and a new transformed psychological score ("Pst") based on the newly entered

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questionnaire responses relating to the human client's psychological characteristics and the human client's entered psychological measurements;

calculate a new wellness quotient ("Wq") of the human client, the wellness quotient being representative of an overall wellness condition of the human client, wherein the wellness quotient ("Wq") is calculated in accordance with the relationship:

$$Wq = (Pht)^{0.4}(Bt)^{0.4}(Pst)^{0.2} ; \text{ and}$$

forming a customized revised wellness program based on the inputted new calculated wellness quotient ("Wq") of the human client.

Claim 154. The system of claim 153 wherein the predetermined period of time is approximately five weeks.

Claim 155. The system of claim 153 wherein the computer system is further configured to form a customized revised wellness program, and to compare the wellness quotient and the new wellness quotient.

Claims 156.-160. (Canceled)

Claim 161. A computer program media product of the type having a plurality of data storage locations tangibly embodied on a computer readable medium, that when executed by a computing device performs the method steps comprising:

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accessing personal data items stored in a personal data storage region, the personal data items being based on personal information of a human client that is based on responses to a questionnaire containing inquiries regarding a plurality of physical and lifestyle aspects of the human client, relating to the human client's physical characteristics, biochemical characteristics, and psychological characteristics, the personal data items being tangibly embodied in the personal data storage region, and having been precalculated by a computing system as a transformed physical score ("Pht") based on the entered questionnaire responses relating to the human client's physical characteristics and the human client's entered physical measurements, a transformed biochemical score ("Bt") based on the entered questionnaire responses relating to the human client's biochemical characteristics and the human client's entered biochemical measurements, and a transformed psychological score ("Pst") based on the entered questionnaire responses relating to the human client's psychological characteristics and the human client's entered psychological measurements; and

accessing and presenting to the human client a pre-computed wellness program customized for the human client in response to the personal information of the human client, the wellness program being based on a pre-computed wellness quotient ("Wq") and tangibly embodied in a wellness data storage region, the wellness quotient having been pre-computed in accordance with the relationship:

$$Wq = (Pht)^{0.4}(Bt)^{0.4}(Pst)^{0.2} .$$

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Claim 162. The computer program product of claim 161, wherein the wellness program is a customized relaxation program.

Claim 163. The computer program product of claim 162, wherein the customized relaxation program is a personalized guided visualization program.

Claim 164. The computer program product of claim 161, wherein the wellness program is a multimedia presentation.

Claims 165.-169. (Canceled)

Claim 170. The computer program product of claim 161, wherein the wellness program includes exercise data responsive to a workout program based on the personal information of the human client and the pre-computed wellness quotient.

Claim 171. The computer program product of claim 161, wherein the wellness program includes data nutritional data responsive to a nutrition program determined in response to the personal information of the human client and the pre-computed wellness quotient.

Claim 172. (Canceled)

***Allowable Subject Matter***

3. Claims 128-136, 138-143, 146-151, 153-155, 161-164, 170, and 171 are allowed.

The following is an examiner's statement of reasons for allowance:

As per claim 128, the primary reason for the indication of allowable subject matter is the recitation of the following limitations in the combination as recited and not found in the prior art:

Applicant teaches generating a personalized wellness program for a human client by utilizing patient data received by a computer system to calculate a transformed physical score ("Pht"), a transformed biochemical score ("Bt"), and a transformed psychological score ("Pst"), the transformed scores used to determine wellness quotient, specifically, wherein the wellness quotient value calculation is claimed:

*calculating, by the computer system, a wellness quotient ("Wq") of the human client, the wellness quotient being representative of an overall wellness condition of the human client, wherein the wellness quotient ("Wq") is calculated in accordance with the relationship:*

$$Wq = (Pht)^{0.4}(Bt)^{0.4}(Pst)^{0.2} ;$$

A computer system is used to administer a questionnaire wherein responses include human client physical characteristics and physical measurements. The human client's physical characteristics and physical measurements are used in a transformation calculation to determine a transformed physical score ("Pht"). Similarly, a transformed biochemical score ("Bt") and a transformed psychological score ("Pst") are calculated. The transformed scores are then used in a wellness quotient ("Wq")



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calculation according to the equation:  $Wq = (Pht)^{0.4}(Bt)^{0.4}(Pst)^{0.2}$ . Based on the calculated wellness quotient, an output item of information is selected and recorded.

The closest prior art, U.S. Patent 6,039,688 to Douglas, sets forth a therapeutic behavior modification program. The system enables development of a therapeutic behavior modification program having a series of milestones for an individual to achieve lifestyle changes necessary to maintain his or her health or recover from ailments or medical procedures. The system monitors the individual's compliance with the program by prompting the individual to enter health-related data, correlating the individual's entered data with the milestones in the behavior modification program and generating compliance data indicative of the individual's progress toward achievement of the program milestones. Through the interfaces, the individual can access the database to review the compliance data and obtain health information from a remote source such as selected sites on the Internet. The system enables motivational media presentations to be made to the individuals in the electronic meeting room as part of the group support session to facilitate interactive group discussion about the presentations.

Additionally, close prior art, U.S. Patent 2004/0267565 to Grube, sets forth a method for expert health coaching of individuals to improve their health, fitness and wellness through interactive Internet access which provides the user with an ongoing interactive coaching health assessment through selected health fitness weighted criteria and individually tailored feedback. Online prompts are presented to the user to complete a daily questionnaire on a variety of particularly defined health behaviors, including exercise, nutrition, sleep habits, and stress management. The data from the daily

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questionnaire are captured in a database and a daily score is calculated based on the input and weighted criteria. A coach is assigned to each individual and the personally assigned coach tracks the assigned individuals' progress daily via the coaching management module. The coach emails the assigned individuals with positive reinforcement, pats on the back or friendly prompts to do better, as appropriate.

However, the prior art fails to teach *calculating a wellness quotient ("Wq") of a human client in accordance with the relationship:  $Wq = (Pht)^{0.4}(Bt)^{0.4}(Pst)^{0.2}$ , wherein the "Pht" is a transformed physical score, "Bt" is a transformed biochemical score, and "Pst" is a transformed psychological score.*

Therefore, the closest prior art of record does not anticipate or otherwise render the claimed invention obvious.

All claims dependent thereon, and the further embodiments, namely claims 129-136, 138-143, 146-151, 153-155, 161-164, 170, and 171, are hereby indicated as being allowed for at least the same rationale as applied to claim 128 above, and incorporated herein.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

The following teaches the general state of the art proximate to the filing date of the instant pending application:

- PR Newswire, "Starting Today, AccentHealth, Inc. Offers a Deep and Intuitive New Health and Wellness Information Web Site Designed to Help Consumers 'Get Well and Stay Well'", New York: Jun 2, 1999. pg. 1;
- PR Newswire, "WellMed Promotes Women's Health Awareness With Launch of Six Online Health Management Tools", New York: Oct 2, 2000. pg. 1;
- U.S. Patent 5,692,501 to Minturn;
- U.S. Patent Application Publication 2004/0267565 to Grube;
- U.S. Patent Application Publication 2003/0204412 to Brier;
- U.S. Patent Application Publication 2005/0228692 to Hodgdon; and
- U.S. Patent 6,039,688 to Douglas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT SOREY whose telephone number is (571) 270-3606. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM (EST).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./  
Examiner, Art Unit 3626

/C. Luke Gilligan/  
Primary Examiner, Art Unit 3626